



Ministry  
of  
Revenue

## Retail Sales Tax Branch

# Information Bulletin

Retail Sales Tax Act

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Pour obtenir cette publication en français, veuillez communiquer avec votre bureau régional de la taxe de vente au détail.

## THE GOODS AND SERVICES TAX (GST)

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- GST ON PROVINCIAL GOVERNMENT PURCHASES

## RETAIL SALES TAX HIGHLIGHTS

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### NO RETAIL SALES TAX ON GST

The Treasurer of Ontario has announced that, if the GST is implemented by the federal government as scheduled, vendors will not be required to include the GST in the selling price of goods, certain services or admission charges before calculating Ontario retail sales tax. All other charges normally included in the selling price for provincial sales tax purposes remain unchanged. For example:

Selling price of taxable goods	\$100
GST (7% X \$100)	<u>7</u>
GST-included price	\$107
PST(8% X \$100)	<u>8</u>
Total billing	\$115

The federal government will allow vendors the option of using GST- included pricing when billing customers. Vendors who choose the federal option, and whose sales are also taxable provincially, may apply to the Retail Sales Tax Branch for approval to use a factor to calculate the amount of retail sales tax to collect from customers. The use of this factor is equivalent to multiplying the GST- excluded selling price by the applicable provincial tax rate. For example, to calculate retail sales tax on goods taxable

at a provincial rate of 8%, vendors would multiply the GST- included price by 7.477%. Using the previous example:

GST- included price	\$107
PST calculation equivalent to 8% of \$100 (7.477% X \$107)	<u>8</u>
Total billing	\$115

Vendors who may wish to use this method of computing provincial tax should write to: Tax Advisory, Retail Sales Tax Branch, Ministry of Revenue, P.O. Box 623, Oshawa, Ontario, L1H 8H7. A vendor authorized to use this alternative must show the amount of provincial tax separately on customers' invoices, but not the equivalent factor used.

In some circumstances, vendors may already be collecting provincial sales tax on GST where federal legislation requires payment of the GST on certain goods, services and admissions billed on or after September 1, 1990 for delivery after December 31, 1990. *Effective immediately*, these vendors should exclude the GST from the calculation of provincial sales tax. Further, they are authorized to repay to customers the portion of provincial sales tax previously collected by them on the GST portion of their billings.





## **GST ON PROVINCIAL GOVERNMENT PURCHASES**

The federal and provincial governments are not legally obliged to pay each other's taxes, but do so by mutual agreement. Generally, vendors dealing with the Ontario government will not charge GST on billings to provincial government Ministries. Many provincial agencies, boards and commissions will also be excluded from paying the GST. Some agencies, boards and commissions, however, will not be considered part of "government" and, therefore, will be subject to GST and provincial sales tax.

Ontario government entities will provide vendors with documents that will certify whether or not GST or provincial sales tax applies. Although most sales to the provincial government will exclude the GST, this does not alter any other application of regular GST rules, such as input tax credits, that may be related to these sales.

Ontario and the Government of Canada are currently negotiating a new Reciprocal Agreement. The status of agencies, boards and commissions and the application of taxes to various purchases will be covered by this Agreement. The effect of these discussions on vendors will be communicated when these negotiations have been finalized.



## **MANUFACTURED COST ESTIMATES**

To simplify the reporting and remittance of tax on manufactured cost, contractors may be authorized by the Retail Sales Tax Branch to use the previous fiscal period's actual costs to estimate labour and overhead expenses in their calculations for the next fiscal period. Recent audits have shown that some contractors who use this method have not been recalculating the tax payable, as required, when actual costs at the end of the fiscal period become known. This has resulted in the assessment of additional tax and interest.

When actual figures are available after the end of the fiscal period for direct materials, labour, manufacturing overhead, and any federal sales or excise taxes payable which are not included in the value of the materials, the contractor must recalculate the tax payable using these figures. If tax has been underpaid, the underpayment must be remitted on the next return. A tax overpayment may be deducted from taxes owing by means of an internal adjustment in the contractor's records.

The new actual figures should then be used as the basis for estimating retail sales tax for the following fiscal period.

If the federal goods and services tax (GST) is implemented on January 1, 1991 as scheduled, contractors should exclude the GST from calculations of manufactured costs for provincial sales tax purposes.



## **VENDORS OPERATING INSIDE AND OUTSIDE ONTARIO**

Under Ontario's Retail Sales Tax Act, tax is payable

by the purchaser on the use of goods and services within the province. Before selling taxable goods or services to their customers, vendors are required to obtain vendor permits in order to collect and remit retail sales tax. These concepts are fundamental to Ontario and to every other province that levies a sales tax.

The responsibility to collect Ontario sales tax does not end at Ontario's boundaries. In certain circumstances, vendors based outside Ontario may be required to charge their Ontario customers sales tax on goods delivered here from outside the province. For example, retailers who maintain branches here and elsewhere in Canada must register for Ontario retail sales tax purposes and collect tax on goods delivered to Ontario. These national companies are required to charge their Ontario customers tax even though the transaction was entered into outside Ontario or the goods delivered from a branch in another province. Similarly, some Ontario vendors have registered to collect the taxes imposed by other provinces on the goods they deliver to customers outside Ontario.

Other vendors outside Ontario may not have a branch or outlet here but routinely make sales and deliver to customers here. These vendors without a presence in the province are not required to collect Ontario retail sales tax. Their Ontario customers, however, are responsible for reporting these purchases to the Retail Sales Tax Branch and paying the applicable tax.

For the convenience of their Ontario customers, non-resident vendors can register with the Retail Sales Tax Branch and obtain vendor permits in order to collect Ontario tax; however, registration is voluntary. Ontario has no authority to penalize vendors who have no presence in Ontario and who operate from locations outside the province without collecting Ontario's taxes.

Ontario has arranged with most other provinces for a reciprocal exchange of information on tax matters. Under these arrangements, evidence of exempt sales to purchasers in Ontario is provided by auditors of the other provinces. In this way, we can contact Ontario purchasers who might otherwise be unaware of their responsibility to pay tax on the goods they bring back to the province. The exchange of similar information with neighbouring American states is currently being negotiated.



## **LEASES AND RENTALS**

### Collision Damage Waivers

Vehicle lessors commonly offer their customers collision damage waivers. For an added optional charge, the customers are relieved of their liability in certain circumstances for damage to the vehicles. These waiver charges are taxable as part of the fair value of the rental charges for a vehicle.

Ontario Sales Tax Guide 151 - "Motor Vehicle Dealers" provides further information about the application of retail sales tax to vehicle leases.

### Insurance Charges

A charge for insurance on short-term lease contracts (less than twelve months) may be exempt from retail sales tax. To be exempt, the charge



must be separated on the lessor's billing and collected on behalf of the insurance company. Further, the insurance contract must be between the lessee and the insurance company.

A charge for insurance on long-term lease contracts (twelve months or more) to cover the lessor's cost to insure the leased goods is not taxable if the charge is separated on the lessor's billing.

#### Funders and Lessors

The Retail Sales Tax Act defines a "sale" to include a lease. Lessors of taxable goods are accordingly required to register as vendors for retail sales tax purposes and to collect and remit tax.

To purchase equipment that will subsequently be leased to a third party, some lessors obtain financing from a "funder". In recent years, routine audits of the leasing industry have revealed inconsistencies in the way lessors and funders collect and remit retail sales tax on lease payments. Some lessors remit the tax while in other cases tax is remitted by the funders.

After reviewing the legislation and submissions by associations of lessors, the Retail Sales Tax Branch has determined that funders are **vendors** for sales tax purposes when the following two conditions are met:

- the lessor has assigned the account receivable of the lessee to the funder, and
- the lessee makes the lease payments directly to the funder.

Funders who operate in this way must charge, collect and remit retail sales tax on the lease payments. As vendors, they will be responsible for remitting 8% retail sales tax on lease payments when they **become due**, whether or not the payments have been received from the lessees. Those who do not already have a vendor permit should obtain one.

For the lessors who have entered into such agreements with funders, no accounting system changes will likely be required. However, they must substantiate that the funders are registered vendors and are remitting retail sales taxes on their behalf.

Funders who provide funding without the assignment of accounts receivable will not be required to register as vendors for retail sales tax purposes. In such cases, the lessors are responsible for charging, collecting and remitting retail sales tax.

#### Loss or Destruction of Goods

In most cases, where goods are rented or leased, the risk of loss is the responsibility of the lessee, who, under the terms of the lease, may be required to compensate the lessor for the loss or destruction of the goods.

This compensation is considered a payment made under the lease and the lessor must collect retail sales tax on the total payment made by the lessee. Tax will apply whether the payment is made to the lessor from personal funds of the lessee, or from

the proceeds of an insurance claim received by the lessee or paid directly to the lessor by the insurance company.



#### **NEW TIRE TAX - TIRES REPLACED UNDER WARRANTY**

Effective June 1, 1989, new replacement tires are subject to tire tax as are the tires purchased with a new vehicle. A wide range of warranties, guarantees, no-charge sales and service charges apply to tire replacements and repairs.

Tire tax applies to tires replaced under warranty if the vendor charges **any amount** for the replacement tire.

If the warranty replacement is free, no tax will apply.



#### **COMPUTER SOFTWARE**

The total charge for systems software is subject to retail sales tax. Systems or "operation" software is computer software:

- that exercises overall control and direction of the computer system, for example, instructing it how to start programs, communicate with printers or store, organize and retrieve data;
- that is supplied with the hardware by the computer manufacturer or distributor; and
- that is not the subject of a specific licensing agreement between purchaser and producer.

Charges for application software are taxable when all the following conditions exist:

- the program, known in the trade as an "off-the-shelf", "pre-packaged" or "pre-written" program, is supplied in executable code only;
- the program is on disk, tape or other medium supplied by the vendor; and
- it is sold together with an assumed, adhesion or shrink-wrapped licence. (An assumed, adhesion or shrink-wrapped licence is a licence agreement or contract that is attached to or enclosed with the package containing the software. Usually the document contains a notice that warns that opening the sealed package or using the software constitutes acceptance of all the terms set forth in the agreement.)

These programs are normally mass-produced and supplied in packaged form together with instructions (manuals) and the licence. The total charge for such software is taxable.

Charges to maintain and upgrade taxable computer software are also taxable.

The supply of other application software is considered to be the provision of a **non-taxable**



**service** under certain circumstances. For example:

- the transfer of software to disk, tape or other medium supplied by the purchaser. The transfer may be made by the vendor, either directly or by wire transfer, or by the purchaser who returns the carrying medium to the vendor;
- the sale of custom software, specifically designed and developed for the exclusive use and special requirements of the customer. However, resale of the customized software by the client for whom it was originally designed may be considered to be the sale of taxable goods; or
- the sale of software under a specifically negotiated and signed licence arrangement between the producer and the user. However, software sold under a standardized agreement signed by a retailer and the purchaser will be considered to be the sale of taxable goods.

Retail sales tax does not apply to charges to produce, maintain or upgrade such exempt software. However, the vendor is liable for tax on the materials and equipment used to provide such service.



#### **INSURANCE / SERVICE CONTRACTS**

In addition to goods they sell, vendors may offer contracts that cover both preventive maintenance on the

goods and insure for losses that may result from the improper or illegal use of the goods. To be exempt from retail sales tax, the charge for the insurance portion of the contract must be segregated on customer's billings from the taxable charge for preventive maintenance and must be collected on behalf of the insurance company. Further, the value shown for each charge must be reasonable amounts. If an all-inclusive charge is made, the total charge is taxable.



#### **NOTICE TO TOBACCO RETAILERS**

Effective November 1, 1990, tobacco retailers must stock and sell only marked cigarette cases, cartons and packages.

Unmarked cigarettes found in a retailer's inventory on or after November 1, 1990 are subject to possible seizure and penalty. The Ministry will be sending detailed information to tobacco retailers.

For additional information on the Tobacco Marking Program, please call the Ministry of Revenue's multi-lingual Telephone Information Centre toll-free from anywhere in Ontario.

- Metro Toronto 965-8470
- All Other Areas 1-800-263-7965
- French Language Enquiries 1-800-668-5821
- Telephone Device for the Deaf 1-800-263-7776

#### **RETAIL SALES TAX FIELD OFFICES**

<b>DURHAM</b> L1N 9B2	1600 Champlain Ave. Whitby 432-3332 Toll Free: 1-800-668-5810 Fax: 435-3535	<b>LONDON</b> N6C 4P6	Westminster Centre 334 Wellington Rd. S. 433-3901 Toll Free: 1-800-265-1540 Fax: 433-6878	<b>PEEL</b> L4Z 1H8	2 Robert Speck Parkway Suite 350 Mississauga 273-9490 Toll Free: 1-800-268-2968 Fax: 273-6987
<b>HAMILTON</b> L8N 3Z9	119 King Street West P.O. Box 2112 521-7504 Toll Free: 1-800-263-9229 Fax: 521-7868	<b>NORTH BAY</b> P1B 2H3	Northgate Plaza 1500 Fisher Street 474-4900 Toll Free: 1-800-461-1564 Toll Free: 1-800-465-5025	<b>TORONTO</b> M4P 1H6	2300 Yonge St. 10th Floor 487-1361 Toll Free: 1-800-268-8852 Fax: 480-7894
<b>KITCHENER</b> N2M 1N2	449 Belmont Ave. W. 576-8400 Toll Free: 1-800-265-2303 Fax: 576-9416	<b>OTTAWA</b> K1H 8K7	Districts: Kenora, Rainy River, Thunder Bay Fax: 474-2400		
			1355 Bank Street 523-9760 Toll Free: 1-800-267-9745 Fax: 523-8703		

**Retail Sales Tax information and vendor service is also available from the following offices:**

#### **MINISTRY OF REVENUE INFORMATION CENTRES**

<b>BARRIE</b> L4M 2Y1	109 Ferris Lane 739-1511 Fax: 728-3077	<b>THUNDER BAY</b> P7C 5P7	Victoriaville Mall 700 Victoria Ave. E. Unit 5 475-1681 Fax: 625-5829
<b>BELLEVILLE</b> K8N 1E2	191 Dundas Street East 962-9108 Fax: 962-7860	<b>WINDSOR</b> N9A 6V9	Ontario Government Bldg. 250 Windsor Ave. 252-4404 Fax: 254-5940
<b>SUDBURY</b> P3E 5P9	Ontario Government Bldg. 199 Larch Street 675-4351 Fax: 675-6610		